

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
CASE NO. 1:14-CV-954**

**STUDENTS FOR FAIR ADMISSIONS,
INC.,**

Plaintiff,

v.

**UNIVERSITY OF NORTH CAROLINA et
al.,**

Defendants.

**PLAINTIFF'S MOTION TO FILE
UNDER SEAL**

Pursuant to Federal Rule of Civil Procedure 5.2 and Local Rule 5.4, Plaintiff Students for Fair Admissions, Inc. ("SFFA") respectfully moves to file certain materials under seal.

1. On October 25, 2017, Defendants ("UNC") filed a motion to dismiss pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure (ECF 106). UNC's memorandum of law in support of that motion (ECF 107) discusses and attaches as exhibits certain discovery materials, including specific deposition testimony and produced documents that are directly relevant to this issue.

2. Pursuant to Section 3.1.1 of the Amended Confidentiality and Protective Order entered by this Court on September 1, 2015 (the “Protective Order”) (ECF 61), SFFA had designated information within some of these discovery materials Confidential or Highly Confidential.

3. Ahead of filing its motion to dismiss and supporting materials, the parties met and conferred regarding these confidentiality designations. SFFA agreed that certain materials could be filed without redaction but continued to assert confidentiality over two items: (1) the identity of Standing Member #1; and (2) SFFA’s response to UNC’s Interrogatory No. 5, which requests that SFFA “[i]dentify the name of any Person or entity that has made or provided any form of contribution or donation, whether in the form of cash, property, or other form, to SFFA since its inception.”

4. UNC made appropriate redactions to its memorandum of law and supporting exhibits and filed a motion to seal with respect to those redacted items.

5. SFFA filed a brief in support of UNC’s motion to seal (ECF 110). In that brief, SFFA argued why the Court should permanently seal the unredacted versions of the filings containing the identity of Standing Member #1 and/or SFFA’s Response to Interrogatory No. 5.

6. In its brief in opposition to UNC's Rule 12(b)(1) motion to dismiss, SFFA makes reference to its standing members and its Response to Interrogatory No. 5. In order to maintain confidentiality of these items, SFFA has redacted all references to the identity of its standing members (including the high schools they attended) in deposition transcripts as well as the contents of its Response to Interrogatory No. 5—in both its brief and opposition and the accompanying exhibits (Exhibits A, H, and I contain redactions). Through this motion, SFFA seeks permanent sealing of the unredacted versions of the filings containing those items, as well as the declarations of each standing member (Exhibits G, J-N) consistent with the treatment sought with respect to the confidential items referenced in UNC's motion to dismiss and supporting memorandum.

6. SFFA files the present motion to seal in order to protect the identities of its standing members and its Response to Interrogatory No. 5.

7. SFFA files contemporaneously herewith a brief in support on this motion, consistent with Local Rule 5.4.

8. Because SFFA's present motion to seal requests essentially the same relief as sought in SFFA's brief in support of UNC's motion to seal, SFFA expressly incorporates the points and authorities made in that brief into its brief in support of the present motion.

WHEREFORE, SFFA respectfully requests that the Court grant this motion and allow unredacted versions of SFFA's Brief in Opposition to UNC's Motion to Dismiss and exhibits identified above to be filed under seal until further order of the Court and to be viewed only by the Judge, her clerk(s), and Court personnel.

Respectfully submitted,

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Dated: November 15, 2017

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing pleading via the Court's electronic filing system, pursuant to the Electronic Filing Procedures, on all attorneys of record who have entered an appearance by ECF in this matter.

This the 15th day of November, 2017.

/s/ Thomas R. McCarthy
Thomas R. McCarthy